

ARTICLE APPEARED

ON PAGE 3 Business
Sec.

WASHINGTON POST

10 September 1984

SEC Goes to Court Seeking to Shut Down Woodbridge Newsletter

By Nancy L. Ross

Washington Post Staff Writer

In another in a series of cases involving government regulation of the financial press, the Securities and Exchange Commission moved last week to try to shut down the investment advisory newsletter "Investment Intelligence," published in Woodbridge.

The SEC charges that Investment Intelligence has operated since January without being registered with the agency, a violation of the Investment Advisors Act of 1940. The SEC is seeking a permanent injunction in federal court in Alexandria to halt publication without registration. A hearing will be held Oct. 17.

At the same time, the SEC is pursuing an administrative action to deny registration on the grounds of fraud. It alleges that Investment Intelligence contained "untrue, deceptive and misleading statements of material facts . . . to clients and prospective clients." Action is set for Nov. 5.

The complaint charges that Investment

Intelligence falsely claimed that it had been in business for two years and that it had an 84 percent success rate in picking winning investments. In fact, the SEC alleges, Investment Intelligence had no track record at all.

According to the SEC, Investment Intelligence also allegedly claimed falsely that it had an "advisory board composed of intelligence professionals formerly affiliated with agencies such as the Central Intelligence Agency and the National Security Agency." A spokesman for the regional SEC office said the publication listed "specific names on the board of advisors, some of which were fictitious and some of which were pseudonyms for existing people. But the real people had never given their permission for the use of their names."

The spokesman added that Investment Intelligence specializes in recommending stocks that are defense-related or that could be affected by international events, such as strategic metals. He said the experts on the

board were supposedly knowledgeable enough about world situations to alert investors to act before events affected market prices.

Brian Warner Smith, 41, of Woodbridge, who publishes Investment Intelligence with his partner Patrick William Hope Garrard of New York City, says the actions "seem to raise important First Amendment issues that need to be adjudicated: licensing of the press and the SEC's ability to censor." On the advice of his attorney, Smith declined to comment on the agency's allegations.

The monthly newsletter is published by a partnership known as Financial News Associates, which does business in Woodbridge as the Center for Strategic Investing. Garrard is a professional copywriter and Smith is publisher of Personal Finance, a registered investment letter whose 200,000 circulation makes it the largest in the country, according to Smith. Personal Finance is published by KCI Publications in Rosslyn, which is owned by Capital Publications, of which Smith is a major stockholder. Smith described himself as a businessman and said he had no financial education or experience as a stock analyst.

The SEC regional office stated that Smith and Garrard began advertising Investment Intelligence last December and sent out 1.6 million fliers. They sold 39,000 subscriptions at \$39 a year, for a total of \$1.2 million. The spokesman added that the pair had directed \$369,000 of that money to themselves or to companies they owned.

The issue of the SEC's power over financial publications is expected to be tested in the Supreme Court. New York publisher Christopher L. Lowe, who has been convicted of several financial-related crimes, lost a decision earlier this year against the SEC in federal appeals court there.

The SEC had revoked his registration, and when Lowe continued to publish, the agency sought an injunction to stop him. The appellate court ruled that SEC licensing was a "permissible regulation of economic activity," like the licensing of a physician or lawyer.